

**BAIL SLIP**

The Revision Petitioner/Accused Christhudoss, aged 40, S/o. Andi was enlarged on bail in CrI MP(MD)No.8288/2016 in CrI Rc (MD)No.632 of 2016 dated 05.10.2016 on the file of this Hon'ble Court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	25.02.2021
DELIVERED ON	15.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI**CrI.RC(MD)No. 632 of 2016**

Christhudoss ... Petitioner/Appellant/Sole accused

Vs.

The Inspector of Police.
Kulithurai Police Station,
Kanyakumari District.

...Respondent/Respondent/ Complainant

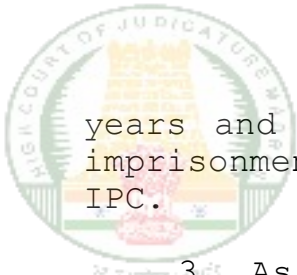
PRAYER: Petition filed under Section 397 & 401 of the Criminal Procedure Code, to call for the records of the learned Sessions Judge/Mahila Fast Track Court, Nagercoil, in C.A. No.24 of 2010, dated 06.08.2016 confirmed the conviction and modified the sentence of imprisonment passed by the learned Assistant Sessions Judge, Kulithurai in S.C. No. 45 of 2003, dated 06.04.2010 and set aside the same by allowing the revision petition.

For Petitioner : Mr.P.T. Ramesh Raja
For Respondent : M/s.M. Anantha Devi
Government Advocate (crl. Side)

ORDER

This criminal revision case has been filed by the petitioner to set aside the Judgment passed by the learned Sessions Judge/Mahalar Fast Track Court, Nagercoil, dated 06.08.2016, in C.A. No.24 of 2010, confirmed the conviction and modified the sentence of imprisonment passed by the learned Assistant Sessions Judge, Kulithurai in S.C. No. 45 of 2003, dated 06.04.2010 by allowing this revision petition.

2. This petitioner was tried before the trial Court for the offences under Sections 307, 326, 324(3 counts) and 506(2) of IPC. The trial Court, in conclusion of the trial, by judgment dated 06.04.2010, in S.C.No.4 of 2003, found the petitioner guilty, convicted and sentenced to undergo One year rigorous imprisonment for each count for the offence under Section 324 (3counts) of IPC and to undergo Rigorous imprisonment for Three



years and to pay a fine of Rs.500/-in default to undergo rigorous imprisonment of Six months for the offence under Section 326 of IPC.

3. As against the judgment of conviction and sentence, this petitioner has preferred an appeal before the learned Sessions Judge/Mahila Fast Track Court, Nagercoil in Crl.A. No.24 of 2010. The lower appellate Court, by Judgment, dated 06.08.2016, modified the appeal and the conviction and sentence was modified to pay a fine of Rs.1,000/-in default to undergo One month simple imprisonment for each count for the offence under Section 324 (3 counts) of IPC and to undergo One year simple imprisonment for the offence under Section 326 of IPC. Aggrieved over the findings of the Court below, the petitioner has preferred the instant criminal revision case.

4. The case of the prosecution is that on 20.03.2002 night at about 09.00 hrs., during the Krishnan temple festival, P.W.1 along with P.W. 2 were coming opposite to the petitioner/accused. At that time, the petitioner/accused abused P.W.1 & P.W.2 by using filthy language the same was questioned by P.W.1 & P.W.2. Due to the enmity between the petitioner and P.W.1 & P.W.2, on the same day at 11.00 p.m., P.W.1, P.W.2 & P.W.3 were standing near the shop of One Thanagaraj, the petitioner/accused came and gave a blow with knife and made a life threat and attacked P.W.2 and caused injuries on the right side face and P.W.1 tried to stop the same, the petitioner/accused gave a blow on P.W.1's right knee and left hand and caused severe blood injuries and he gave a blow to P.W.1 on his right side shoulder and caused lacerated injuries and he also gave a blow on P.W.3 and caused injuries on left side wrist and caused blood injuries and also attacked P.W.4 and caused injuries on right side shoulder and right hand index finger and also made life threat to the persons who were standing in the nearby places.

5. The learned Counsel for the petitioner contended that the case of the prosecution is that the alleged occurrence was happened on the Tar Road, but the investigating officer has recovered blood stained soil to fix the place of occurrence and the same was clearly contradicts the prosecution case and a serious doubt has been created because of this with regard to the place of occurrence and the same was not considered by the Court below. He further contended that the appellate Court has not appointed a legal aid counsel for the appellant to decide the appeal and in the absence of the appellant's Advocate the appellate Court has passed order on merits. He further contended that the conviction and sentence passed by the Court below are contrary to law, weight of evidence and probabilities of the case and the same is liable to be set aside.

6. The learned Government Advocate (crl. Side) appearing for the respondent police submitted that the case of the prosecution is supported by the evidence of prosecution witnesses. Merely because they are relatives, their evidence cannot be discarded, when the

Wound Certificates issued by the Doctor [PW.15] were marked before the trial Court. Therefore, she prays for dismissal.

7. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate (crl. Side) appearing for the respondent police and perused the material documents available on record.

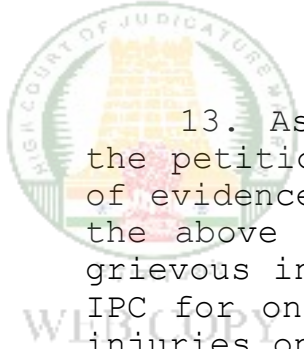
8. The revision petitioner has filed this criminal revision case to set aside the Judgment passed by the learned Sessions Judge/Mahalir Fast Track Court, Nagercoil, dated 06.08.2016, in C.A. No.24 of 2010, confirmed the conviction and modified the sentence of imprisonment passed by the learned Assistant Sessions Judge, Kulithurai in S.C. No. 45 of 2003, dated 06.04.2010.

9. The petitioner/accused was charged for an offences under Sections 307, 326, 324(2 counts) and 506(ii) of IPC and convicted under Sections 324(3 counts) and 326 of IPC by the learned Assistant Sessions Judge, Kulithurai and sentenced to undergo One year rigorous imprisonment for each count for the offence under Section 324 (3 counts) of IPC and to undergo Rigorous imprisonment for Three years and to pay a fine of Rs.500/-in default to undergo rigorous imprisonment of Six months for the offence under Section 326 of IPC.

10. As per prosecution case, on 20.03.20002 at 09.00 p.m., the petitioner/accused abused P.W.1 to P.W.3 by using filthy language and the same was questioned by P.W.2 & P.W.3 the petitioner/accused also abused them. At 11.00 p.m., the petitioner came and gave blow on the left side face of P.W.2 and also right knee and left hand of P.W.1. Again, he tried to attack P.W.1 the same was blocked by him, the petitioner/accused made abrasion on the back side of P.W.3's right shoulder and collar bone. Again, he attacked P.W.3 on his left wrist. After seeing occurrence, P.W.4 shouted, the petitioner thrown the knife on him and caused injuries on his right shoulder and right hand finger. The petitioner has also made life threat with knife and ran way with knife. Hence, P.W.1 has preferred the complaint.

11. As per evidences of P.W.1, P.W.2 got cut injuries from head to cheek on left side. But, it was stated in the First Information Report that P.W.2 got injuries on his cheek in front side of the left ear. When P.W.1 shouted the petitioner, he gave a blow on right collar bone and left hand elbow. But, P.W.2 had stated in his evidence that he got injury on right knee also.

12. The Doctor was examined as P.W.15, who gave treatment to the injured persons and also issued wound certificates. He deposed in his evidence that, P.W.2 got incise wound on the left side face. P.W.1 got injury on his right side leg and a nerve was also cut. Further, P.W.1 had sustained injuries on his left hand and abrasion on right side shoulder.



13. As per prosecution case, a sharp edged knife was used by the petitioner/accused at the time of occurrence. During the course of evidence, Doctor has also deposed that due to sharp edged weapon the above injuries were caused. First injury of P.W.1 & P.W.2 are grievous in nature. But, accused was convicted under Section 326 of IPC for one count. P.W.4 was also examined by doctor and found injuries on right side shoulder, right wrist and finger.

14. P.W.1 & P.W.2 have clearly deposed that the injuries caused by the petitioner/accused and the same were tallied with the wound certificates issued by the Doctor. P.W.4 has also clearly deposed that the petitioner/accused attacked P.W.1 & P.W.2 and himself by knife.

15. The learned counsel appearing for the petitioner/accused submitted that there is some previous motive between the petitioner/accused and the prosecution witnesses. Therefore, the prosecution witnesses have wantonly implicated the petitioner/accused. In support of defence taken by the learned counsel for the petitioner/accused, one witness was examined as D.W.1 to prove the previous enmity. Generally, motive is like a double edged weapon.

16. Further, there are minor contradictions about the place of occurrence and weapon. The weapon was also not recovered. P.W.5, an eye witness who was turned hostile.

17. There is no delay in filing the First Information Report. The occurrence took place on 20.03.2002 at 11.00 P.M., and the complaint was preferred on 21.03.2002 at 02.00 a.m., within three hours. The evidences of P.W.1 to P.W.4, contention in the First Information and the medical evidences are corroborated each other.

18. As per Judgment reported in **1996(6)SCC 129 : 1996 SCC (crl.) 1124, Keshub Mahindra Vs. State of Madhya Pradesh.**, for applicability of Sections 324 & 326 IPC, the material relied upon by the prosecution in support of such charges must show that the accused concerned had committed the act complained of atleast with the knowledge that by such act he was likely to cause hurt or grievous hurt to the victim.

19. In view of the above discussions, this Court finds no valid reason to interfere with the Orders of the Court below.

20. Accordingly, this Criminal Revision Case stands dismissed. The conviction and sentence passed by the learned Sessions Judge/Mahalir Fast Track Court, Nagercoil, dated 06.08.2016, in C.A. No.24 of 2010, confirmed the conviction and modified the sentence of imprisonment passed by the learned Assistant Sessions Judge, Kullithurai in S.C. No. 45 of 2003, dated 06.04.2010, are hereby confirmed. The trial Court is directed to secure the



petitioner/accused, who was sentenced for imprisonment and confine him to prison so as to undergo the remaining period of imprisonment, if any. Bail bonds, if any executed, shall stand terminated.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Sessions Judge, Mahalir Fast Track Court, Nagercoil
2. The Additional Mahila Court/Sessions Judge,
Kanyakumari at Nagercoil.
3. The Assistant Sessions Judge, Kulithurai.
4. The Inspector of Police.
Kulithurai Police Station,
Kanyakumari District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
6. The Section Officer, Criminal Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.

Order made in
Cr1.RC(MD)No.632 of 2016
15.03.2021

VB (23.03.2021) 5P 8C